

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 29, 2002

DIVISION ONE

B153585	People v. Waites	(Not for Publication)
B157966	In re Waites on Habeas Corpus	

We remand the matter for the trial court to calculate defendant's custody credits under Penal Code section 4019 for the entire time spent in custody on this case up to the date of the second sentencing. The trial court is directed to issue a new abstract of judgment and send it to the Department of Corrections. In all other respects, the judgment is affirmed. The petition for a writ of habeas corpus is denied.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B151052	People v. Williams	(Not for Publication)
B159059	In re Williams on Habeas Corpus	

The judgment is affirmed. The clerk of the trial court is directed to prepare a corrected abstract of judgment and to forward it to the Department of Corrections. Defendant's petition for writ of habeas corpus is denied.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B151028 Prato-Morrison, et al. (Certified for Publication)
v.
Doe, et al.

The order of dismissal is affirmed. The Does are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B157563 Rochlin (Not for Publication)
v.
Rochlin et al.

The judgment (order of dismissal) is reversed, and the cause is remanded to the trial court with directions (1) to vacate its order sustaining the demurrers to Plaintiff's first cause of action (fraud), second cause of action (false promise), third cause of action (negligent misrepresentation), fourth cause of action (negligence), and seventh cause of action (breach of fiduciary duty), (2) to enter a new order overruling the demurrers to the first, second, third, fourth, and seventh causes of action, and (3) to order Defendants to answer the remaining causes of action. Plaintiff is entitled to her costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B152113 Scofield (Not for Publication)
v.
Department of Justice et al.

The judgment is affirmed. The Department is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

October 29, 2002 (Continued)

DIVISION ONE (Continued)

B152180 Scofield (Not for Publication)

V.

Board of Administration of the California Public Employees' Retirement System

The judgment is affirmed. CalPERS is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Mallano, J.

B151603 Sparks (Not for Publication)

V.

Di Giacomo, et al.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B150290 Perfit (Not for Publication)

V.

Perfit

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B145869 Moore (Not for Publication)

v.
Cedars-Sinai Imaging Medical Group

The appeal is dismissed. The motion for sanctions for a frivolous appeal is denied, but the Group is awarded its costs of appeal, including contractual attorney's fees, and the cause is remanded to the trial court with directions to determine the appropriate amount of fees and costs.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B149881 State Farm Fire and Casualty Co. (Not for Publication)

v.
The Doctors' Company

The judgment is reversed, and the cause is remanded to the trial court with directions to enter a new judgment without the provision for TDC's reimbursement of State Farm. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B155524 Ezell (Not for Publication)

v.
Eldridge

That part of the January 31, 2002, order awarding Eldridge attorney fees of \$10,000 is vacated. Eldridge is awarded \$23,800 in attorney fees plus the \$1,129 in costs awarded by the trial court, for an award of \$24,929 for the special motion to strike and demurrer (including the related request for judicial notice) in the trial court and costs on the first appeal. Eldridge also is awarded \$8,390 for costs on the current appeal, for a total award of attorney fees and costs to Eldridge, below and here, of \$33,319, which amount shall be paid by Ezell.

Ortega, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

October 29, 2002 (Continued)

DIVISION ONE (Continued)

B155601 People (Not for Publication)

$$\mathbf{V}_i$$

Cornelio D. Herrera

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.

Vogel (Miriam A.), J.

B154939 People (Not for Publication)

V.

DeJohn W.

The order of wardship is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.

Vogel (Miriam A.), J.

B153041 People (Not for Publication)

 \mathbf{V}_s

Jerry W. Medina

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.

Ortega, J.

B157998 People (Not for Publication)

V.

Victor Gomez

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.

Vogel (Miriam A.), J.

October 29, 2002 (Continued)

DIVISION ONE (Continued)

B155846 People (Not for Publication)

$$\mathbf{V}_i$$

Matthew L. Ross

The appeal is dismissed.

Spencer, P.J.

We concur: Ortega, J.

Mallano, J.

B153099 People (Not for Publication)

V.

Julio Velasquez

The judgment is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.

Vogel (Miriam A.), J.

B156835 People (Not for Publication)

V.

Israel C.

The dispositional order is modified to reflect a maximum period of confinement of four years eight months. As modified, the order under review is affirmed.

Mallano, J.

We concur: Spencer, P.J.

Vogel (Miriam A.), J.

B157074 Los Angeles County, D.C.S. (Not for Publication)

V.

Gary C.

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Mallano, J.

DIVISION ONE (Continued)

B156666 Los Angeles County, D.C.S. (Not for Publication)
v.
Teresa R.

The order under review is affirmed.

Mallano, J.

We concur: Ortega, Acting P.J.
 Vogel (Miriam A.), J.

B151907 People (Not for Publication)
v.
Jorge E. Murillo

The judgment is affirmed. The clerk of the trial court is directed to prepare a corrected abstract of judgment and to forward it to the Department of Corrections.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

DIVISION TWO

B156921 People (Not for Publication)
v.
Isidoro

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

DIVISION TWO (Continued)

B156761 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Daniel R.

The order appealed from is affirmed.

Nott, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B151165 People (Not for Publication)
 v.
 Valdez

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
 Ashmann-Gerst, J.

B154889 Sharp (Not for Publication)
 v.
 Samsonite Corporation

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION THREE

B155781 People (Not for Publication)
 v.
 Osvaldo S.

The order continuing wardship is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

October 29, 2002 (Continued)

DIVISION THREE (Continued)

B153755 People (Not for Publication)
v.
Lucas

The judgment is reversed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

B155766 People (Not for Publication)
v.
Olsen

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B156837 People (Not for Publication)
v.
Emerald B.

The order continuing wardship is modified by modifying probation condition number 22 to read, "Do not associate with persons known to appellant to be users or sellers of narcotics/controlled substances except with the prior written permission of the Probation Officer," and, as modified, the order continuing wardship is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

[illegible]

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

October 29, 2002 (Continued)

DIVISION THREE (Continued)

B154963 People v. Williams (Not for Publication)

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B148462 Juan Fernandez (Not for Publication)
v.
Bovis Construction Corp.

The judgment in favor of Bovis Construction Corporation is reversed. Plaintiff is awarded his costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B160733 Judith T. (Not for Publication)
v.
Superior Court, Los Angeles County
(Department of Children and Family Services, Los Angeles County, r.p.i.)

The petition for a writ is dismissed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B154694 Gerald Newman, et al. (Not for Publication)
v.
Alan Phan

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

B155409 Shih Rin Pai (Not for Publication)
 v.
 Vincent Long

The judgments and order from which defendant has appealed are affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B154399 Burk (Not for Publication)
 v.
 Burk

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Hastings, J.

B153969 Watson (Not for Publication)
 v.
 Sealmaster Industries, Inc., et al.

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Hastings, J.

B150516 Rodriguez, et al. (Not for Publication)
 v.
 Lubow

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Hastings, J.

DIVISION FOUR (Continued)

B156610 Brown (Not for Publication)

$$\mathbf{V}_i$$
Professional Organization of Women in Entertainment Reaching Up, Inc.,
et al.

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B152623 Bernards Bros., Inc. (Not for Publication)

$$\mathbf{V}_i$$

Insul Acoustics, Inc., et al.

The judgment is reversed solely to permit the trial court to file a modified judgment in accord with the views expressed herein. In all other respects, the judgment is affirmed. The parties are to bear their own costs on appeal.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B156443 Los Angeles County, D.C.S. (Not for Publication)

V.

Rachel R.

The order terminating Mother's parental rights to Crystal and Matthew is reversed, and the matter is remanded to the juvenile court to schedule a new section 366.26 hearing, in accordance with the views expressed herein.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

October 29, 2002 (Continued)

DIVISION FOUR (Continued)

B154271 People (Not for Publication)
v.
Carter

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B153175 In re Wendell Dill (Not for Publication)
on
Habeas Corpus

The petition is granted solely to direct the Department of Corrections to bring petitioner Wendell Dill before the Los Angeles Superior Court, Judge Francis Hourigan presiding, so that the court can proceed in accord with the views expressed herein. The order to show cause is discharged.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B160192 Danielle S., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services , r.p.i.)

The petition is denied.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

October 29, 2002 (Continued)

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Hastings, J.

B143784 People (Not for Publication)
v.
Ankrom and Shvartsburd

The judgment is affirmed with regard to Shvartsburd. The judgment is reversed with regard to Ankrom in connection with counts 1 through 11 but affirmed with regard to counts 12 through 14. The matter is remanded to the trial court with directions to dismiss counts 1 through 11 as to Ankrom and for resentencing of Ankrom on counts 12 through 14.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B155259 People (Not for Publication)
v.
Lara

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

October 29, 2002 (Continued)

DIVISION FOUR (Continued)

B149325 Daley
v.
Chmura

Filed order granting petition for rehearing.

DIVISION FIVE

B158818 People (Not for Publication)
v.
Gregory Gadlin

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION SIX

B159036 People (Not for Publication)
v.
Sims

The order is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B147327 White (Certified for Publication)
v.
Lieberman

The matter is remanded to consider the amount of attorney's fees. (Sec. 425.16, subd. (c).) In all other respects, the judgment is affirmed. Costs are awarded to Lieberman.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

October 29, 2002 (Continued)

DIVISION SIX (Continued)

B156247 People (Not for Publication)
v.
Martinez

We strike the Penal Code section 667.5, subdivision (b), enhancement on count 1, modify the sentence on count 3 to six months to be served in any penal institution concurrently with counts 1 and 2, and otherwise affirm.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

DIVISION SEVEN

B151505 Streetscenes, et al. (Certified for Partial Publication)
v.
ITC Entertainment Group

The judgment is reversed and the matter is remanded to the trial court for further proceedings not inconsistent with the views expressed herein. Each side to bear its own costs on appeal.

Munoz, J. (Assigned)

We concur: Johnson, Acting P.J.
Woods, J.

October 29, 2002 (Continued)

DIVISION SEVEN (Continued)

October 29, 2002

117606-02

THE HONORABLE H. WALTER CROSKEY, Judge of the Superior Court of California, County of Los Angeles, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division SEVEN**, as a justice thereof, on the following date(s):

December 13, 2002

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, in necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

October 22, 2002

Ronald M George
Chief Justice of California and
Chairperson of the Judicial Council

October 29, 2002 (Continued)

DIVISION EIGHT

Court convened at 9:00 A.M.

Present: Cooper, P.J., Rubin, J., Boland, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B147636 Demond v. Bicknell Partnership

B151722 People v. Hall

B153051 People v. Stufflefield

B153989 Doepke v. Ponhold et al.

B154136 People v. Turner

B155929 DCFS v. Guillermo S.

B156559 DCFS v. Concetta T.

B156790 People v. Hilger

B157102 People v. Barrera

B157213 DCFS v. Larry J. et al.

B160079 Denise C. v. SCLA

B160430 Denise B. v. SCLA

B149816 People v. Humphrey

Argument waived, cause submitted.

B151242 Cruz
v.
Cruz

Appearances:

Cornell L. Hatcher for appellant and by Marjorie G. Fuller for respondent.

Argument waived, cause submitted.

B148494 Meza
v.
Good Samaritan Hospital

Oral argument continued to November 21, 2002 at 9:00 a.m.

DIVISION EIGHT (Continued)

B155636 Lefrak & Associates
 v.
 Gray

Oral argument continued to November 21, 2002 at 9:00 a.m.

B153572 Politi
 v.
 County of Los Angeles

Merits:

Argued by Edward Y. Politi appellant, in propria persona. Appearing for respondent and waiving argument Francis E. Scott, Deputy County Counsel. Cause submitted.

Court recessed at 9:35 a.m.

Court reconvened at 1:06 P.M.

Present: Cooper, P.J., Rubin, J., Boland, J. and Emma Jean Amos, Deputy Clerk.

B152107 Armstead
 v.
 Carlisle

Merits:

Argued by Denise Brogna for appellant and by Gregory W. Smith for respondent. Cause submitted.

B140757 Regency Wines, Inc.
 v.
 Champagne Montaudon

Merits:

Argued by Bryan B. Arnold for respondent. Appearing for appellant and waiving argument Michael J. Perry. Cause submitted.

DIVISION EIGHT (Continued)

B149727 National American Insurance Company
 v.
 G&G Fire Sprinklers, Inc.

Oral argument continued to November 21, 2002 at 1:00 p.m

B150235 Computer Nozzle, Inc.
 v.
 Cambridge Associates, Inc.

Merits:

Argued by James M. Weinberg for appellant and by Kevin H. Stack for respondent. Cause submitted.

B155022 Jibilian, et al.
 v.
 City of Los Angeles
 Wayne, et al.

Matter ordered off calendar.

B152609 Butler, et al.
 v.
 Bell Helicopter Textron, et al.

Oral argument continued to January 30, 2003 at 1:00 p.m.

B148699 Bauer
 v.
 Gravning, et al.

Merits:

Argued by Natalie A. Kouyoumdjian for appellant and by Steven Hilst for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B143112 Gunther-Wahl Productions

v.

Mattel, Inc.

Merits:

Argued by Stuart B. Esner for appellants and by Michael K. Collins for respondent. Cause submitted.

B152748 Futurenet Online, Inc.

v.

Web TV Networks, Inc.

Oral argument continued to November 21, 2002 at 9:00 a.m.

B153030 Flightsafety International Inc.

v.

LA Co. Assessment Appeals Board, et al.

Oral argument continued to November 21, 2002 at 9:00 a.m.

B157086 Reed, et al.

v.

Mutual Service Corporation, et al.

Oral argument continued to November 21, 2002 at 1:00 p.m.

B146106 Abbassi

v.

Regents of the University of California

Oral argument continued to December 17, 2002 at 1:00 p.m.

Court Adjourned at 3:10 p.m.

October 29, 2002 (Continued)

DIVISION EIGHT (Continued)

B151106 People (Not for Publication)
v.
Mendoza

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

B154788 People
v.
Jackson

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B159458 Los Angeles County, D.C.S.
v.

B161424 Teresa R. and Jose R.
Los Angeles County, D.C.S.
v.
Teresa R.

Filed order consolidating above captioned appeals.